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09/788,200	02/16/2001	Martin E. Morrow	128605	6130

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EXAMINER	
STERRETT, JONATHAN G	
ART UNIT	**PAPER NUMBER**
3623	

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/788,200	MORROW ET AL.	
	Examiner	Art Unit	
	Jonathan G. Sterrett	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 Feb 2001*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Summary

1. Claims 1-18 are pending in the application.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, 6 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Callen, US Patent 6,556,976.

Regarding Claim 1, Callen discloses contracting with a customer (column 10 line 41, customer contracts with customer for goods or services); posting a description of the project at a site on a computer network (column 10 line 5-6, RFQ on website) receiving one or more bids for the project over the computer network (column 10 line 35-37, bid displayed on webpage and sent to customer); awarding the project to at least one selected developer from the developers based on the bids (column 10 line 40, customer chooses vendor); administering development of the project by the selected developer (column 9 line 41-45, project management information contained); and supplying the customer a completed project (column 10 line 52, customer information management area provides timeline for completion).

Regarding Claim 2, Callen discloses obtaining a project request from the customer over the computer network before said contracting (column 10 line 6, RFQ is emailed to website for vendor to access).

Regarding Claim 6, Callen discloses recruiting at least one of the developers over the computer network (figure 1 #26, network utilized; column 8 line 32, customer can use a bidding process).

Regarding Claim 9, Callen discloses wherein said administering includes checking status of the project at predefined milestones (column 10 line 51-55, tasks, resources, timeframe and targets for completion to analyze progress).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 3, 4, 5, 10, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Callen US Patent 6,556,976 in view of Aycock US Patent 5,765,138.

Regarding Claim 3, Callen does not teach screening the project request with the developers. Aycock teaches screening the project request with the developers (column 4 line 7-8, supplier performs self-evaluation). Aycock teaches screening the project enables the supplier to more efficiently respond to a request for proposal. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the

teachings of Callen, as discussed above, with screening the project request, for the purpose of having a RFQ system that improves supplier response efficiency.

Regarding Claim 4, Callen does not teach evaluating the project request, said evaluating including comparing the project request to a job type template generated from at least one prior project. Aycock teaches evaluating the project request, said evaluating including comparing the project request to a job type template generated from at least one prior project (column 4 line 21, evaluation system comprises RFP/RFQ template file). Aycock teaches this template approach allows completion of the supplier responses in an efficient manner. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Callen, as discussed above, with using a RFP/RFQ template file, as taught by Aycock, for the purposes of having a RFQ system that improves supplier response efficiency.

Regarding Claim 5, Callen does not teach recruiting a qualified developer based on a profile of the qualified developer stored in a database. Aycock teaches recruiting a qualified developer based on a profile of the qualified developer stored in a database (column 3 line 40, evaluating suppliers as qualified vendors; column 3 line 46, historical vendor database). Aycock teaches having qualified vendors allows for a more efficient RFP/RFQ system (column 4 line 8-10). It is old and well known in the art to qualify vendors as a prerequisite for bidding for projects. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Callen, as discussed above, with recruiting a qualified developer based on a profile of

the qualified developer stored in a database, for the purposes of having a RFQ system that improves supplier response efficiency.

Regarding Claim 10, Callen does not teach screening projects with the developers; and adjusting the bids based on individual developer reputation scores. Aycock teaches screening projects with the developers (column 4 line 7-8, supplier self evaluation); and adjusting the bids based on individual developer reputation scores (column 8 line 64-65, higher maturity level suppliers cost more). Aycock teaches scoring suppliers based on key elements of their ability to function as supplier to a customer. The scoring is based on compliance and non-compliance to a set of industry standards (ISO). It is obvious in Aycock's teachings that customers would use the supplier maturity score to adjust the value of the supplier's bid either up or down depending on the performance of the supplier, as determined by the maturity assessment in comparison to key project specifications as determined by the customer. Aycock teaches that a higher maturity score equates to lower risk, i.e., greater probability that a supplier will perform to expectations when conducting a project. It is old and well known in the art that risk and financial reward are correlated. A supplier then, with a higher maturity score and lower inherent risk would be worth more on any given project in comparison to a supplier with a lower maturity score and higher inherent risk since a higher risk carries a more costly financial implication with it. It would be obvious to one of ordinary skill in the art at the time of the invention to utilize Aycock's maturity assessment within Callen's system for processing RFQ's with the motivation of helping suppliers screen bids and quantify the specific aspects of their maturity level

compared to project specifications for improving both their ability to respond to RFQ's as well as help customers quantifiably identify the supplier performance in comparison with the specifications of a particular RFQ for the purpose of adjusting the bid of the supplier.

Regarding Claim 12, Callen teaches operating a project development server that is operatively coupled to one or more developer computers over a computer network (figure 1a #18, system server; figure 1a #26 internet/network), the server being operatively coupled to a customer computer over a computer network (figure 1a #12, customer interface connects to internet/computer network; figure 1a, #18 system server connects to internet/computer network); receiving a signal corresponding to a request for development of a project from the customer computer over the computer network (figure 2c step "Vendor is emailed RFQ"); sending one or more signals corresponding to a description of the project to one or more of the developer computers over the computer network (column 8 line 45-58, customer fills out specific criteria describing project to be sent to vendors over network). Callen does not teach receiving with the server one or more signals corresponding to one or more evaluations of the project from the developer computers over the computer network; sending to the customer computer a signal corresponding to an acceptance of the project based at least in part on the evaluations. Aycock teaches receiving with the server one or more signals corresponding to one or more evaluations of the project from the developer computers over the computer network (column 6 line 19-22, maturity questions weighted based on relevance to project objectives; column 3 line 67, supplier electronically uploads

responses); sending to the customer computer a signal corresponding to an acceptance of the project based at least in part on the evaluations (column 4 line 12-13, supplier response to RFQ based on answers to maturity level questions). Aycock teaches his system provides a more objective, efficient system for responding to RFQ's since it provides objective criteria for a supplier for self-evaluation and correlates the weighting of those criteria with specific project specifications. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the ecommerce method of Callen with the object supplier maturity evaluation system of Aycock for the purpose of improving supplier objectivity and efficiency in responding to RFQ's.

Regarding Claim 13, Callen teaches wherein the project development server includes a web server (figure 1a #16, commerce website servers) and the computer network includes the Internet (figure 1a #26 internet / computer network).

6. Claims 14, 15, 16, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Callen US Patent 6,556,976 in view of Aycock US Patent 5,765,138 and further in view of LeVander US Patent 5,765,138.

Regarding Claim 14, Callen teaches a computer-readable device, the device comprising: said logic being operable by said computer to receive the bid for the project from the developer over a computer network (column 10 line 29, vendor emails bid to server). Callen does not teach logic executable by a computer to adjust a bid for a project from a developer based on reputation; said logic being further operable by said computer to maintain a reputation score for the developer; said logic being further operable by said computer to calculate an adjusted.bid, wherein the adjusted bid

corresponds to the bid from the developer proportionally adjusted with respect to the reputation score of the developer; and wherein said logic is operable by said computer to provide the adjusted bid. Aycock teaches adjusting a bid for a project from a developer based on reputation (column 8 line 64-65, higher maturity level suppliers cost more for projects); said logic being further operable by said computer to maintain a reputation score for the developer (column 3 line 47, database stores historical vendor performance reports); wherein the adjusted bid corresponds to the bid from the developer proportionally adjusted with respect to the reputation score of the developer (column 7 line 17-19, supplier maturity scores are correlated with weighting of questions; column 8 line 64-65, supplier cost is proportional to their maturity level). Aycock teaches that assessing the maturity level of suppliers in a systematic way more accurately enables customers to not only assess the performance of any supplier in comparison to a proposed project, but also provides insight into what the supplier should be paid to execute a project. Aycock teaches his system provides a more objective, efficient system for responding to RFQ's since it provides objective criteria for a supplier to evaluate themselves and correlates the weighting of those criteria with specific project specifications. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the ecommerce method of Callen with the object supplier maturity evaluation system of Aycock for the purpose of improving supplier objectivity and efficiency in responding to RFQ's. Callen and Aycock do not teach logic executable by a computer to calculate and provide bids. LeVander teaches using computer executable logic to calculate (column 12 line 35, formula for calculating

a price adjustment based on a job discount) and display (column 9 line 47-48, system calculates and displays a maximum job discount) adjusted bids. LeVander teaches his system provides communication and feedback into company performance (column 13 line 41-42) and that this feedback gives a business the opportunity for continuous improvement and growth. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the ecommerce teachings of Callen and the bidding and supplier maturity assessment system of Aycock with providing computer executable logic, as taught by LeVander, with the motivation of having an RFQ system that adjusts and displays supplier bids based on their performance scores using computer executable logic.

Regarding Claims 15, Callen teaches a vendor or customer interface comprising a standard desktop PC (Figure 1a #12, #14) which would obviously contain a removable memory device such as a floppy disk or a CD/ROM for storing programming instructions. It is old and well known in the art to be able to store and remove programming instructions on a removable memory device for the purpose of portability of those instructions from one computer to another. It would be obvious to one of ordinary skill in the art at the time of the invention to modify the collective teachings of Callen, Aycock and LaVender, as discussed above, for the purpose of having portable programming instructions that could be carried from one computer to another.

Regarding Claim 16, Callen teaches a computer network (figure 1a #26, Internet/computer network) where logic would be in form of signals carried on network. It is obvious in Callen's teachings that the computer network would carry encoded

signals. Since Callen teaches his invention could operate on the Internet, the logic would be incorporated into signals encoded according to TCP/IP protocol. It would be obvious to one of ordinary skill in the art at the time of the invention to modify the collective teachings of Callen, Aycock, and LaVender, as discussed above, with having logic in the form of encoded signals carried on a computer network with the motivation of having an RFQ system that could be accessed across a network.

Regarding Claim 17, Aycock teaches scoring a supplier performance based on their adherence to standard (ISO 9000) quality metrics, including project scheduling (column 1 line 66). Project scheduling would include timely completion of projects. Aycock teaches a supplier must be responsive to specific project requests by being evaluated by a on site inspection as part of their maturity score (column 3 line 16, onsite supplier evaluation). It would be obvious to one of ordinary skill in the art at the time of the invention to modify the collective teachings of Callen, Aycock, and LaVender, as discussed above, with scoring a vendor based on reputation and participation with the motivation of being able to comprehensively measure that vendor's capability.

Regarding Claim 18, LaVender teaches his system displays the adjusted bid (column 9 line 47-48). LaVender teaches his system is operable on a standard desktop PC (column 6 line 60). It is old and well known in the art that PC's can create webpages using, for example, Microsoft Word™ to create an html document. It would be obvious to one of ordinary skill in the art at the time of the invention to modify the collective teachings of Callen, Aycock, and LaVender, as discussed above, with having

the adjusted bid displayed on a webpage with the motivation of being able to display the adjusted bid on the internet.

7. Claims 7, 8 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Callen US Patent 6,556,976 in view of Stauber US Patent 6,574,635.

Regarding Claim 7 and 8, Callen teaches wherein said awarding (column 10 line 40-41, customer chooses a vendor), said administering (column 10 line 45-55, customer informational management) occur over the computer network (Figure 1a #26). Callen does not teach supplying over a network, as per Claim 7 and testing the completed project over the computer network as per Claim 8. Stauber teaches supplying, as per Claim 7, and testing the completed project, as per Claim 8, over a network. Stauber teaches the Internet opens significant business opportunities for independent software developers to create third party applications (column 7 line 65-67) for distribution over the internet (column 4 line 33-34), as per Claim 7. Stauber teaches a developer can test a project over the computer network (column 2 line 46-47, developer can make changes and test them), as per Claim 8. Stauber teaches the creation of an electronic global village through the Internet that connects companies, individuals, and organizations that are separated by geography (column 1 line 25-28, internet creation of virtual electronic community). Stauber teaches that companies who embrace the new and advanced computing paradigm of internet-based applications will gain significant competitive advantage (column 1 line 36-40). It would have been obvious to modify the teachings of Callen, as discussed above, with supplying and testing a project over a

network, as taught by Stauber, with the motivation of gaining significant competitive advantage by utilizing a network to award, administer, supply and test a project.

Regarding Claim 11, Callen teaches where the computer network includes the Internet (Figure 1A #26, Internet/Computer Network) and the site includes a website (Figure 2A, Step "RFQ is posted on Website"). Callen does not teach where the project includes a software application development project and the developers include a virtual community of remotely located software developers. Stauber teaches where the project includes a software application development project (column 7 line 65 – column 8 line 2, application development by third parties) and the developers include a virtual community of remotely located software developers (column 1 line 27-28, virtual electronic community). Stauber teaches the creation of an electronic global village through the Internet that connects companies, individuals, and organizations that are separated by geography (column 1 line 25-28, internet creation of virtual electronic community). Stauber teaches that companies who embrace the new and advanced computing paradigm of internet-based applications will gain significant competitive advantage (column 1 line 36-40). It would have been obvious to modify the teachings of Callen, as discussed above, with the project including a software development project and the developers including a virtual community of remotely located software developers, as taught by Stauber, with the motivation of gaining significant competitive advantage.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Lungren US Patent 6,092,050 discloses a system and method for financial estimating and project management.

Puram US Patent 6,289,340 discloses a system for selecting candidates by adjusting skill values of those candidates.

Wolters US Patent 5,826,252 discloses a system for managing multiple projects using a dynamically updated global database.

Nguyen US Patent 6,202,070 discloses a system for manufacturing and distributing software over a network.

Guinta US Patent 6,161,101 discloses a computer-assisted method for assessing an organization, process or system.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is 703-305-0550. The examiner can normally be reached on 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 703-305-9643. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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11-10-2004

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